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| 10/588,427 | 09/25/2008 | Achim Kraus | 022862-1094-US00 | 8727 |
| 23409 7590 07/08/2011 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202 | | | | |
| EXAMINER GRAHAM, GARY K | | | | |
| ART UNIT 3727 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mkeipdocket@michaelbest.com

Office Action Summary

Application No.

10/588,427

Applicant(s)

KRAUS ET AL.

Examiner

GARY GRAHAM

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date 20060804, 20090114
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 19 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 19, which depends on claim 18, sets forth that the securing device is made of fiber reinforced plastic when claim 18 has already set forth that the device is made of sheet metal. There does not appear disclosure of an embodiment where the device is of both plastics and sheet metal. It appears the device is to be either one or the other. Clarification is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Edele et al (DE 19546906).

Edele discloses the invention as is claimed. Edele discloses a wiper device (fig.5) comprising a wiper bearing (3) supporting a wiper shaft (12). The shaft has radial circumferential undercuts (18) into which a plastic securing device or bushing (1) for axially fixing the shaft in the bearing is arranged. The securing device appears radially symmetrical with gaps (8,24) and can be displaced by the effects of a defined axial force component on the wiper shaft whereby the wiper shaft can be displaced to the wiper bearing. The securing device includes a bushing section with radial circumferential indentations (21,22) which engage the undercuts of the wiper shaft. Application of sufficient axial force on the wiper shaft will result in movement of the indentations (21,22) and axial movement of the shaft from the bearing.

With respect to claims 4 and 13, the indentations of Edele are considered to be “tub” shaped, at least as far as defined.

With respect to claims 5, 6, 14 and 15, portions (4,9,10) of Edele are considered to define flange sections and bushing-shaped closure sections, at least as far as such defines any particular structure. Note that “sections” can be defined wherever so desired.

With respect to claims 7 and 16, the securing device of Edele is considered to be “essentially” S-shaped in cross-section. Initially, note that use of the term “essentially” allows for leeway with respect to any particular shape. Secondly, note the contour of the portion of the securing device shown in figure 5a of Edele. Such portion of the securing device appears as essentially S-shaped, thus meeting the claim.

Claims 1-8 and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibata et al (JP 2001294127).

Shibata discloses the invention as is claimed. Shibata discloses a wiper device (1, fig.7) comprising a wiper bearing (41,43,49) supporting a wiper shaft (3). The shaft has radial circumferential undercut (32) into which a securing device (5) for axially fixing the shaft in the bearing is arranged. The securing device appears radially symmetrical with gap (57) and can be displaced by the effects of a defined axial force component on the wiper shaft whereby the wiper shaft can be displaced into the wiper bearing. The securing device includes a bushing section (51) with radial circumferential indentation (52) which engages the undercut of the wiper shaft. Application of sufficient axial force on the wiper shaft will result in movement of the indentation and axial movement of the shaft into the bearing.

With respect to claims 4 and 13, the indentation of Shibata is considered to be “tub” shaped, at least as far as defined.

With respect to claims 5, 6, 14 and 15, portions of the bushing section of Shibata are considered to define a flange “section” and bushing-shaped closure “section”, at least as far as such defines any particular structure. Note that a “section” can be defined wherever so desired.

With respect to claims 7 and 16, the securing device of Shibata is considered to be “essentially” S-shaped in cross-section. Note that use of the term “essentially” allows for leeway with respect to any particular shape.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edele et al (DE 19546906).

The publication to Edele discloses all of the above recited subject matter with the exception of the securing device being of sheet metal instead of plastics.

While Edele discloses plastics for the securing device, the selection of another, different material such as sheet metal for the securing device appears a mere choice of materials. It would have been obvious to one of skill in the art to select other well known materials for the securing device of Edele, including as claimed, as a mere choice of design, lacking any criticality of such material. It is noted that making of bushings of sheet metal is well established.

Claims 10 and 19, as far as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Edele et al (DE 19546906) in view of Epple (US patent 6,027,157).

Edele discloses all of the above recited subject matter with the exception of the plastics material of the device being fiber reinforced plastics.

The patent to Epple discloses that plastics materials used within wiper systems can be fiber reinforced (col.4, lines 8+). Additionally, it is noted that fiber reinforcement of plastics is well established.

It would have been obvious to one of skill in the art to reinforce the plastics material of the device of Edele with fiber, as suggested by Epple and as is well established, to enhance the strength of the device.

Claims 9, 10, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata et al (JP 2001294127)

The publication to Shibata discloses all of the above recited subject matter with the exception of the securing device being of a particular material.

While Shibata is silent as to the material for the securing device, the selection of a particular material, such being selected on the basis of suitability, such as sheet metal or reinforced plastics, appears a mere choice of materials. It would have been obvious to one of skill in the art to select any well known material for the securing device of Shibata, including as claimed, as a mere choice of design, lacking any criticality of such material.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GARY GRAHAM whose telephone number is (571)272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727